

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1390

Introduced by Senator Block

February 19, 2016

~~An act relating to teachers.~~ *An act to amend Section 24214.5 of the Education Code, relating to teachers.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1390, as amended, Block. Teachers: ~~recruitment and retention.~~ *retention: retirement.*

Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. STRS is governed by the Teachers' Retirement Board. Existing law permits members retired for service from STRS to perform member activities without reinstatement into the system if certain conditions are met and requires payment for the performance of retired member activities to be \$0 during the first 180 calendar days after the most recent retirement of a retired member, as specified.

This bill would authorize a member retired from service to perform member activities for a school district, notwithstanding the above-mentioned 180 calendar days compensation limitation, if certain conditions are met, including that there is a current or projected teacher shortage in a subject area, as designated by the Superintendent of Public Instruction.

~~Existing law establishes various programs for the recruitment of teachers.~~

~~This bill would state that it is the intent of the Legislature to enact legislation that would address the teacher shortage in California.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 24214.5 of the Education Code is amended
2 to read:
3 24214.5. (a) (1) Notwithstanding subdivision (f) of Section
4 24214, the postretirement compensation limitation that shall apply
5 to the compensation paid in cash to the retired member for
6 performance of retired member activities, excluding
7 reimbursements paid by an employer for expenses incurred by the
8 member in which payment of the expenses by the member is
9 substantiated, shall be zero dollars (\$0) during the first 180 calendar
10 days after the most recent retirement of a member retired for service
11 under this part.

12 (2) For written agreements pertaining to the performance of
13 retired member activities entered into, extended, renewed, or
14 amended on or after January 1, 2014, the limitation in paragraph
15 (1) shall also apply to payments made for the performance of retired
16 member activities, including, but not limited to, those for
17 participation in a deferred compensation plan; to purchase an
18 annuity contract, tax-deferred retirement plan, or insurance
19 program; and for contributions to a plan that meets the requirements
20 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
21 26 of the United States Code when the cost is covered by an
22 employer.

23 (b) If the retired member has attained normal retirement age at
24 the time the compensation is earned, subdivision (a) shall not apply
25 and Section 24214 shall apply if the appointment has been
26 approved by the governing body of the employer in a public
27 meeting, as reflected in a resolution adopted by the governing body
28 of the employer prior to the performance of retired member
29 activities, expressing its intent to seek an exemption from the
30 limitation specified in subdivision (a). Approval of the appointment
31 may not be placed on a consent calendar. Notwithstanding any
32 other provision of Article 3.5 (commencing with Section 6250) of
33 Division 7 of Title 1 of the Government Code or any state or

1 federal law incorporated by subdivision (k) of Section 6254 of the
2 Government Code, the resolution shall be subject to disclosure by
3 the entity adopting the resolution and the system. The resolution
4 shall include the following specific information and findings:

5 (1) The nature of the employment.

6 (2) A finding that the appointment is necessary to fill a critically
7 needed position before 180 calendar days have passed.

8 (3) A finding that the member is not ineligible for application
9 of this subdivision pursuant to subdivision (d).

10 (4) A finding that the termination of employment of the retired
11 member with the employer is not the basis for the need to acquire
12 the services of the member.

13 (c) Subdivision (b) shall not apply to a retired member whose
14 termination of employment with the employer is the basis for the
15 need to acquire the services of the member.

16 (d) Subdivision (b) shall not apply if the retired member received
17 additional service credit pursuant to Section 22714 or 22715 or
18 received from any public employer any financial inducement to
19 retire. For purposes of this section, “financial inducement to retire”
20 includes, but is not limited to, any form of compensation or other
21 payment that is paid directly or indirectly by a public employer to
22 the member, even if not in cash, either before or after retirement,
23 if the participant retires for service on or before a specific date or
24 specific range of dates established by a public employer on or
25 before the date the inducement is offered. The system shall liberally
26 interpret this subdivision to further the Legislature’s intent to make
27 subdivision (b) inapplicable to members if the member received
28 a financial incentive from any public employer to retire or
29 otherwise terminate employment with a public employer.

30 (e) The Superintendent, the county superintendent of schools,
31 or the chief executive officer of a community college shall submit
32 all documentation required by the system to substantiate the
33 eligibility of the retired member for application of subdivision (b),
34 including, but not limited to, the resolution adopted pursuant to
35 that subdivision.

36 (f) The documentation required by this section shall be received
37 by the system prior to the retired member’s performance of retired
38 member activities.

39 (g) Within 30 calendar days after the receipt of all
40 documentation required by the system pursuant to this section, the

1 system shall inform the entity seeking application of the exemption
2 specified in subdivision (b), and the retired member whether the
3 compensation paid to the member will be subject to the limitation
4 specified in subdivision (a).

5 (h) If a member retired for service under this part earns
6 compensation for performing retired member activities in excess
7 of the limitation specified in subdivision (a), the member's
8 retirement allowance shall be reduced by the amount of the excess
9 compensation. The amount of the reduction in an individual month
10 shall be no more than the monthly allowance payable in that month,
11 and the total amount of the reduction shall not exceed the amount
12 of the allowance payable during the first 180 calendar days, after
13 a member retired for service under this part.

14 (i) *Notwithstanding subdivision (a), a member retired from*
15 *service under this part may perform retired member activities for*
16 *any school district during the first 180 calendar days after the*
17 *most recent retirement of the retired member if all of the following*
18 *conditions are met:*

19 (1) *There is a current or projected teacher shortage in a subject*
20 *area, as designated by the Superintendent.*

21 (2) *The retired member is needed as a substitute teacher for*
22 *special education, mathematics, or science classes.*

23 (3) *The school where the retired member is performing retired*
24 *member activities meets either of the following:*

25 (A) *The enrollment of English language learners, students*
26 *eligible for free or reduced-price meals, or foster youth at the*
27 *school is equal to or greater than 55 percent of the school's student*
28 *enrollment.*

29 (B) *The school meets federal Provision 1, Provision 2, or*
30 *Provision 3 for participation in the National School Lunch*
31 *Program, as authorized by Section 11(a)(1) of the Richard B.*
32 *Russell National School Lunch Act (Public Law 113-79).*

33 (i)

34 (j) The amendments to this section enacted during the first year
35 of the 2013–14 Regular Session shall apply to compensation paid
36 on or after January 1, 2014.

37 ~~SECTION 1. It is the intent of the Legislature to enact~~
38 ~~legislation that would address the teacher shortage in California.~~

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